



State of California
Employment Training Panel

Arnold Schwarzenegger, Governor

December 3, 2009

Myung Kim
Chief Executive Officer
ADCON Technical Institute, Inc. d.b.a. ATI College
1125 East 17th Street, Suite N251
Santa Ana, CA. 92701

Dear Mr. Kim:

Enclosed is our final audit report relative to the Employment Training Panel Agreement No. ET05-0122 for the period July 1, 2004, through June 30, 2006.

We did not receive a response to the draft audit report; therefore, our findings and recommendations remain unchanged.

Also enclosed is a demand letter for payment of costs disallowed in the audit report. Payment is due upon receipt of this letter. If you wish to appeal the audit findings, you must follow the procedure specified in Attachment A to the audit report.

We appreciate the courtesy and cooperation extended to our auditor during the audit. If you have any questions, please contact Lindsay Bowen at (916) 327-5243.

Sincerely,

Original signed by:

Stephen Runkle
Audit Manager

Enclosures

cc: Lisa Jee, Executive Director

**ADCON TECHNICAL INSTITUTE, INC. d.b.a.
ATI COLLEGE**

Agreement No. ET05-0122

Final Audit Report

For The Period

July 1, 2004 through June 30, 2006

Report Published December 3, 2009

Stephen Runkle, Audit Manager
Telephone: (916) 327-5439

Audit Staff: Lindsay Bowen

Employment Training Panel
Audit Unit
1100 J Street FL 4
Sacramento, CA 95814-2827

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AUDITOR'S REPORT

Summary

We performed an audit of ADCON Technical Institute, Inc. d.b.a. ATI College's compliance with Agreement No. ET05-0122, for the period July 1, 2004, through June 30, 2006. Our audit pertained to training costs claimed by the Contractor under this Agreement. Our audit was performed during the period July 28, 2008, through October 10, 2008.

The Employment Training Panel (ETP) reimbursed the Contractor a total of \$537,432.33. Our audit supported \$429,882.33 is allowable. The balance of \$107,550 is disallowed and must be returned to ETP. The disallowed costs resulted from 120 trainees who were ineligible for the small business reimbursement rate, 37 trainees who had unsupported class/lab training hours, 6 trainees who were placed in occupations not included in the Agreement, 1 trainee employed by the training agency, 1 trainee who did not meet post-training retention requirements, and 2 trainees who did not meet minimum wage requirements. We also noted administrative findings for 2 trainees who did not meet retrainee eligibility requirements and inaccurate reporting of trainee wage rates.

AUDITOR'S REPORT (continued)

Background

Founded in 1998, ADCON Technical Institute, Inc., d.b.a. ATI College (ATI) is an affiliate of Adcon Computer Systems, which was established in 1985. ATI is headquartered in Norwalk and maintains a second training facility located in Tustin.

This was the second Agreement between ETP and ATI. This training project sought to provide training to incumbent workers whose employers are primarily small and medium-sized manufacturers. The Agreement also provided funding for the training of unemployment insurance recipients or individuals who had recently exhausted benefits. Therefore, this Agreement provided for training in Computer Skills, Commercial Skills and Literacy Skills specific to the targeted trainee populations noted above.

This Agreement allowed ATI to receive a maximum reimbursement of \$666,982 for retraining 500 employees and training and placing 18 new-hire trainees. During the Agreement term, the Contractor placed 362 retrainees and 14 new-hire trainees and was reimbursed \$537,432.33 by ETP.

Objectives, Scope, and Methodology

We performed our audit in accordance with *Government Auditing Standards*, promulgated by the United States General Accounting Office. We did not audit the financial statements of ADCON Technical Institute, Inc. d.b.a. ATI College. Our audit scope was limited to planning and performing audit procedures to obtain reasonable assurance that ADCON Technical Institute, Inc. d.b.a. ATI College complied with the terms of the Agreement and the applicable provisions of the California Unemployment Insurance Code.

Accordingly, we reviewed, tested, and analyzed the Contractor's documentation supporting training cost reimbursements. Our audit scope included, but was not limited to, conducting compliance tests to determine whether:

- Trainees were eligible to receive ETP training.
- Training documentation supports that trainees received the training hours reimbursed by ETP and met the minimum training hours identified in the Agreement for Job Nos. 1 and 3. Trainees received the minimum training hours specified in the Agreement for Job No. 2.
- Training Verification Questionnaires sent to ETP trainees support that trainees received the training hours reimbursed by ETP and met the minimum training hours identified in the Agreement for Job Nos. 1 and 3. Trainees received the

AUDITOR'S REPORT (continued)

minimum training hours specified in the Agreement for Job No. 2.

- Trainees were employed continuously full-time with a single participating employer for 90 consecutive days after completing training, and the 90-day retention period was completed within the Agreement term.
- Trainees were employed in the occupation for which they were trained and earned the minimum wage required at the end of the 90-day retention period.
- The Contractor's cash receipts agree with ETP cash disbursement records.

As part of our audit, we reviewed and obtained an understanding of the Contractor's management controls as required by *Government Auditing Standards*. The purpose of our review was to determine the nature, timing, and extent of our audit tests of training costs claimed. Our review was limited to the Contractor's procedures for documenting training hours provided and ensuring compliance with all Agreement terms, because it would have been inefficient to evaluate the effectiveness of management controls as a whole.

Conclusion

As summarized in Schedule 1, the Summary of Audit Results, and discussed more fully in the Findings and Recommendations Section of our report, our audit supported \$429,882.33 of the \$537,432.33 paid to the Contractor under this Agreement is allowable. The balance of \$107,550 is disallowed and must be returned to ETP.

Views of Responsible Officials

The audit findings were discussed with Myung Kim, Chief Executive Officer, and Lisa Jee, Executive Director, at an exit conference held on July 31, 2008 and by telephone on March 5, 2009. A draft audit report was issued to the Contractor on October 29, 2009. The Contractor did not respond in writing to the draft review report.

The issuance of your final audit report has been delayed by the audit unit. Therefore, ETP waived the accrual of interest for the disallowed costs beginning October 10, 2009 through the issue date of this final audit report. The interest waiver (adjustment) was \$5,215.72, which was deducted from the total accrued interest.

Audit Appeal Rights

If you wish to appeal the audit findings, it must be filed in writing with the Panel's Executive Director within 30 days of receipt of this audit report. The proper appeal procedure is specified in Title 22, California Code of Regulations, Section 4450 (attached).

AUDITOR'S REPORT (continued)

Records

Please note the ETP Agreement, Paragraph 5, requires you to assure ETP or its representative has the right, "...to examine, reproduce, monitor and audit accounting source payroll documents, and all other records, books, papers, documents or other evidence directly related to the performance of this Agreement by the Contractor... This right will terminate no sooner than four (4) years from the date of termination of the Agreement or three (3) years from the date of the last payment from ETP to the Contractor, or the date of resolution of appeals, audits, or litigation, whichever is later."

Stephen Runkle
Audit Manager

Fieldwork Completion Date: October 10, 2008

This report is a matter of public record and its distribution is not limited. The report is intended for use in conjunction with the administration of ETP Agreement No. ET05-0122 and should not be used for any other purpose.

SCHEDULE 1 – Summary of Audit Results

ADCON TECHNICAL INSTITUTE, INC. d.b.a. ATI COLLEGE

AGREEMENT NO. ET05-0122
FOR THE PERIOD
JULY 1, 2004 THROUGH JUNE 30, 2006

	<u>Amount</u>	<u>Reference*</u>
Training Costs Paid By ETP	<u>\$ 537,432.33</u>	
Disallowed Costs:		
Ineligible Small Business Rate	58,859.00	Finding No. 1
Unsupported Class/Lab Training Hours	32,990.00	Finding No. 2
Ineligible Trainee Occupation	7,779.00	Finding No. 3
Training Provided to a Training Agency's Own Employee	3,990.00	Finding No. 4
Post-Training Retention Requirements Not Met	2,139.00	Finding No. 5
Minimum Wage Requirement Not Met	1,793.00	Finding No. 6
Ineligible Trainees	-	Finding No. 7
Inaccurate Reporting	<u>-</u>	Finding No. 8
Total Costs Disallowed	<u>\$ 107,550.00</u>	
Training Costs Allowed	<u><u>\$ 429,882.33</u></u>	

* See Findings and Recommendations Section.

FINDINGS AND RECOMMENDATIONS

FINDING NO. 1 – ADCON Technical Institute, Inc., d.b.a. ATI College (ATI) Ineligible Small Business Rate incorrectly claimed the small business reimbursement rate for 120 Job No. 3 trainees. As a result, we disallowed the difference between the normal reimbursement rate (\$13 per hour + support costs) and the Small Business reimbursement rate (\$20 per hour + support costs) claimed for these trainees for a total of \$58,859.

Title 22 California Code of Regulations, Section 4411(a) states in part that “...standardized fixed-fee rates per hour may vary depending on the training delivery method (e.g., classroom/laboratory), complexity of the training, size of employer served, and the type of trainee (e.g., retrainee) receiving training.”

Title 22 California Code of Regulations, Section 4400(w) states in part that “...a company may not be considered a small business if it is a subsidiary corporation...”

Exhibit A, Chart 1, of the Agreement identifies Job No. 3 was established for small businesses with 100 or fewer full-time employees worldwide.

The Contractor incorrectly placed 20 trainees who were not employed by small businesses during their reported training and retention periods in Job No. 3, which was established solely for retraining the employees of businesses with 100 or fewer full-time employees worldwide. The table below shows the number of misplaced trainees per employer.

No.of Misplaced Job No. 3 Trainees	Employer No.
45	1
8	2
11	3
33	4
8	5
15	6

Attachment A, Finding No. 1, details the paid hours, paid costs, and disallowed costs by trainee. Attachment D lists the employers with parent companies noted, as applicable, The basis for our finding, per employer, is summarized below:

FINDINGS AND RECOMMENDATIONS (continued)

Employer No. 1

During the Agreement, ATI reported to ETP that Employer No. 1 had 187 full-time employees. The Certification Statement completed by Employer No. 1 states the company has 185 full-time employees in California and 200 worldwide. Furthermore, information obtained by ETP Auditor directly from Employer No. 1 confirmed the company had 200 full-time employees during the training and retention periods reported for their employees by ATI.

Employer No. 2

ATI reported to ETP that Employer No. 2 had 7,000 full-time employees worldwide, 220 of whom are in California. The Certification Statement completed by Employer No. 2 states the company has 16 employees in California and worldwide. However, other information obtained by ETP Auditor indicates that Employer No. 2 is a subsidiary of a corporation that has over 17,000 employees worldwide.

Employer No. 3

ATI reported to ETP that Employer No. 3 had 34 full-time employees. However, the Certification Statement completed by Employer No. 3 states the company has 28 full-time employees in California and 5000 worldwide. Other information obtained by ETP Auditor indicates Employer No. 3 is also a subsidiary of a corporation that has over 160,000 employees worldwide.

Employer No. 4

ATI reported to ETP that Employer No. 4 had 180 full-time employees worldwide, 45 of whom are in California. The Certification Statement completed by Employer No. 4 states the company has 41 employees in California. However, ATI enrolled another participating employer in this Agreement under the same California Employer Account Number (CEAN). ATI also reported this second employer as located at the same address as Employer No. 4. ATI reported to ETP that this second employer with the same CEAN as Employer No. 4 had 120 full-time employees worldwide, 75 of which are in California. Other information obtained by ETP Auditor indicates Employer No. 4 has over 1,000 employees worldwide.

Employer No. 5

ATI reported to ETP that Employer No. 5 had 400 full-time employees worldwide, 16 of whom are in California. The Certification Statement completed by Employer No. 5 also states

FINDINGS AND RECOMMENDATIONS (continued)

the company has 16 employees in California and 400 worldwide.

Employer No. 6

ATI reported to ETP that Employer No. 6 had 13,000 full-time employees worldwide, 56 of whom are in California. No Certification Statement completed by Employer No. 6 could be located for review by ETP Auditor. Other information obtained by ETP Auditor indicates Employer No. 6 has approximately 12,664 employees and is a subsidiary of a corporation which has over 222,000 employees worldwide.

Recommendation ATI must return \$58,859 to ETP. The Contractor should ensure that only training hours delivered to the employees of businesses with 100 or fewer full-time employees worldwide are submitted to ETP for the Small Business reimbursement rate.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 2 – Training records maintained by ATI did not support paid training hours for 35 Job No. 1 trainees and 1 Job No. 3 trainee. We previously disallowed \$359 in training costs claimed for Trainee No. 42 in Finding No. 1. Thus, we disallowed the remaining \$32,990 in training costs claimed for these 36 trainees.

Unsupported
Class/Lab Training
Hours

Title 22 California Code of Regulations (CCR), Section 4442(a) requires the Contractor to maintain and make available records that clearly document all aspects of training. All classroom/laboratory training records must include hours of attendance and dates of training, be certified daily by the instructor during training, signed (or initialed) daily by the trainee, and signed by the trainer for each type of training.

Paragraph 2(b) of the Agreement states: “Reimbursement for class/lab and videoconference training for trainees in Job Number 1 [Job No. 3 was added in Amendment No. 1] will be based on the total actual number of training hours..., up to the maximum specified in Chart 1, providing the minimum and no more than the maximum hours are met.” Exhibit A, Chart 1, page 6 and 7, required that Job Nos. 1 and 3 trainees complete between 24 to 100 class/lab hours.

Audit Sample

Our initial audit sample for the testing of class/lab training hours included 6 (4 random/statistical and 2 judgmental/non-statistical) of the 46 Job No. 1, Employer No. 1 trainees placed in the Agreement. Due to not appearing on rosters for all or a portion of the reported training dates, ETP Auditor found that original rosters maintained by ATI only supported training hours paid by ETP for 1 of the 4 random/statistical sample trainees. Thus, 3 of the 4 random trainees (75 percent error rate) were disallowed, along with the 2 judgmental trainees, who also had unsupported class/lab hours due to not appearing on rosters for all or a portion of their reported training dates. The table below shows the statistical results of our initial testing of Job No. 1, Employer No. 1 trainees.

FINDINGS AND RECOMMENDATIONS (continued)

Job No. 1, Employer No. 1 Trainees	
Trainees Placed	45
Random Statistically Selected Trainees [a]	4
Random Statistically Selected Trainees Disallowed [b]	3
Error Rate [b] ÷ [a]	75%
Non-Random Selected Trainees [c]	2
Non-Random Selected Trainees Disallowed [d]	2
Total Trainees Audited [a] + [c]	6
Total Audited Trainees Disallowed [b] + [d]	5

Based on the initial random/statistical sample audit results (75 percent error rate) and to obtain a more accurate error rate, ETP Auditor expanded the audit sample and reviewed an additional 11 Job No. 1, Employer No. 1 trainees. 9 of these 11 trainees (82 percent) did not appear on rosters for all or a portion of their reported training dates.

In lieu of extrapolating a probable error rate based on the initial and expanded audit sample results (total 80 percent error rate), and with good cause to believe that a significant overpayment had occurred, ETP Auditor performed a 100 percent review of the original rosters maintained by ATI for the remaining 29 Job No. 1, Employer No. 1 trainees placed by ATI. That review found that 21 of the 29 remaining trainees did not appear on rosters for all or a portion of their reported training dates.

Therefore, we disallowed training hours for a total of 35 Job No. 1, Employer No. 1 trainees (5 initial audit sample + 30 expanded audit sample). We also disallowed training hours for 1 initial random/statistical Job No. 3, Employer No. 1 trainee, who did not appear on rosters for all or a portion of his reported training dates. Attachment B, Finding No. 2 details the paid training hours, disallowed training hours, audited training hours, and resulting disallowed costs for all 36 trainees noted above.

Recommendation ATI College must return \$32,990 to ETP. The Contractor should ensure that training records support hours submitted for reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 3 – Ineligible Trainee Occupation ATI claimed reimbursement for 2 Job No. 1 and 4 Job No. 3 trainees who were not employed in occupations specified in the Agreement. Thus, we have disallowed \$7,779 in training costs for these trainees.

Exhibit A, paragraph VII. A. of the Agreement states, "Employment for each trainee shall be in the occupations listed in [the Agreement]...." The occupations identified in the Agreement did not include President or Vice-President or any other executive staff occupations.

Paragraph 5(i) of the Agreement states, "No senior level managers or executive staff who set company policy are included in ETP-funded training under this Agreement."

Employer information obtained via Employment Verification Questionnaires identified six trainees were employed as executive staff, and not in occupations specified in the Agreement. Employer information confirmed these trainees had the authority to set company policy. The following table shows the job title, as provided by the employer, for the 6 trainees.

Trainee No.	Job No.	Position Title
158	3	President
159	3	Vice President
160	1	Vice President
161	3	President
162	1	President
165	3	Vice President/Manager

Recommendation ATI must return \$7,779 to ETP. The Contractor should ensure all trainees are employed in the occupations specified in the Agreement and/or were not employed in senior level or executive positions, prior to claiming reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 4 – Training Provided to a Training Agency's Own Employee

ATI was reimbursed for training provided to one Job No. 2 trainee employed by ATI. An ETP moratorium prohibits the funding of training for employees of training agencies. As a result, we disallowed \$3,990 in training costs.

Unemployment Insurance (UI) Code, Section 10205 (b) (5) (d) states the Panel will fund projects that best meet the priorities identified annually. At the February 24, 2000, Employment Training Panel meeting, the Panel placed a continuing moratorium on future funding for any or all of a training agency's own employees. This applied to all training agencies doing business directly or indirectly with ETP.

ADCON Technical Institute, Inc., d.b.a. ATI College (ATI) was eligible to contract with ETP as a training agency. During this Agreement, ATI submitted a Certification Statement for an ETP eligibility determination of "ADCON Technical Institute, Inc.", and was denied as an eligible employer by ETP. However, ATI reported that Trainee No. 157 was employed by ATI during the trainee's retention period from October 25, 2004 to January 25, 2005. Employment Development Department (EDD) base wage information also supports Trainee No. 157 was an employee of ATI during retention. Thus, Trainee No. 157 was not eligible to receive ETP funded training.

Recommendation ATI must return \$3,990 to ETP. The Contractor, a training agency, should not submit training delivered to its own employees for reimbursement by ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 5 – Employment Development Department base wage information shows that one Job No. 3. trainee did not meet post-training requirements. Thus, we disallowed \$2,139 in training costs for this trainee.
Post-Training Requirements Not Met

Paragraph 2(i) of the Agreement regarding a Multiple Employer Agreement With Retrainees states in part: “The Contractor must have an approved retraining certification form on file for each participating employer, prior to the start of training for a participating employer.” The Agreement provides Job No. 3 solely for the training of Multiple Employer Retrainees.

Exhibit A, paragraph VII. A. of the Agreement states, “Each trainee must be employed full-time, at least 35 hours per week, with a single participating employer for a period of at least ninety (90) consecutive days immediately following the completion of training.”

ATI reported that Trainee No. 163 received training from February 15, 2005, to April 29, 2005, and completed the post-training retention period from April 30, 2005, to July 29, 2005 with the approved participating employer Ro Generation, Inc. ATI provided a California Employer Account Number (CEAN) to ETP for Ro Generation, Inc. that matched the CEAN on file with ETP. However, Employment Development Department (EDD) base wage information does not support that Trainee No. 163 was employed at all with this employer during retention since Ro Generation, Inc. reported no wages paid to her past March 31, 2005. The employer did not respond to our Employment Verification Questionnaire. Therefore, ETP Auditor could not confirm that Trainee No. 163 voluntarily terminated employment with Ro Generation, Inc.

EDD base wage information does show that wages were reported for Trainee No. 163 under a different CEAN by another employer, Trioette Design. EDD tax accounting information indicates that this employer and the reported employer, Ro Generation, Inc., are not related. Furthermore, no approved retraining certification form was on file for Trioette Design. Thus, Trainee No. 163 did not complete retention requirements with a single participating employer as specified in the Agreement.

Recommendation ATI must return \$2,139 to ETP. The Contractor should ensure trainees meet post-training employment requirements as specified in the Agreement prior to claiming reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 6 –
Minimum Wage
Requirement Not
Met

Trainee employment information shows that two trainees did not meet the minimum wage requirement specified in the Agreement. We previously disallowed training costs claimed for Trainee Nos. 99 and 149 in Finding Nos. 1 and 2 respectively. Thus, we disallowed the remaining \$1,793 in training costs claimed for these trainees.

Exhibit A, paragraph VII. A. of the Agreement states, “Each trainee must be employed full-time... for a period of at least ninety (90) consecutive days immediately following the completion of training... Wages at the end of the 90-day retention period shall be equal to or greater than the wages listed in [the Agreement].”

The Agreement required that Job No. 1 and 3 trainees earn a minimum wage rate of \$12.50 per hour following the post-training retention period. The Agreement allowed the Contractor to include the dollar value of employer-paid health benefits to meet minimum wage requirements. However, the employer reported that Trainee Nos. 99 and 149 did not receive health benefits. The table below shows the wage reported by ATI, required wage rate, wage reported by employer, and employer-paid health benefits.

Trainee No.	Job No.	Reported Wage Rate	Required Wage Rate	Wage Rate Per Employer Responses	Employer-Paid Health Benefits	Total Actual Wage Rate
99	3	\$13.25	\$12.50	\$9.51	\$0.00	\$9.51
149	1	\$13.00	\$12.50	\$9.19	\$0.00	\$9.19

Recommendation ATI must return \$1,793 to ETP. The Contractor should ensure all trainees meet minimum wage requirements and obtain documentation of employer-paid health benefit costs, if necessary, prior to claiming reimbursement from ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 7 – Ineligible Trainees Trainee employment information shows two Job No. 3 trainees were ineligible to receive training. These trainees did not meet retrainee eligibility requirements prior to the start date of training. As a result, the Contractor did not comply with trainee eligibility requirements as specified during the term of this Agreement.

Unemployment Insurance Code, Section 10201(c) and Exhibit A, Paragraph III of the Agreement between ETP and ATI required a trainee be employed full-time by the Contractor or a participating employer for a minimum of 90 days before the trainee begins training. Otherwise, to be eligible a trainee must have been employed at least 20 hours per week for at least 90 days by an eligible employer during the 180-day period preceding the trainee's hire date with the current employer.

ATI reported Trainee No. 156 was hired on August 16, 2005, and training records show the trainee began training on October 11, 2005. Employment Development Department (EDD) base wage information supports the Contractor reported hire date, and does not support other prior employment. Since the trainee's hire date is only 56 days prior to the start of training, Trainee No. 156 did not meet retrainee eligibility requirements.

ATI reported Trainee No. 164 was hired on August 22, 2005, and training records show the trainee began training on October 12, 2005. Employment Development Department (EDD) base wage information supports the Contractor reported hire date, and does not support other prior employment. Since the trainee's hire date is only 51 days prior to the start of training, Trainee No. 164 did not meet retrainee eligibility requirements.

Recommendation ATI should ensure that all trainees meet eligibility requirements specified during the term of the Agreement. Failure to do so may result in repayment of unearned funds, plus applicable interest, to ETP.

FINDINGS AND RECOMMENDATIONS (continued)

FINDING NO. 8 – Trainee hourly wage rates reported by ATI on invoices submitted to ETP were inaccurate. As a result, the Contractor did not comply with Agreement reporting requirements.

Inaccurate
Reporting

Paragraph 2(d) of the Agreement states, “Contractor shall submit invoices and necessary statistical data to ETP in a form and manner prescribed by ETP.” Actual, complete trainee wage rate information is required to verify compliance with Exhibit A, paragraph VII.A of the Agreement. This section states, “Each trainee must be employed full time... for a period of at least ninety (90) consecutive days immediately following the completion of training... Wages at the end of the 90-day retention period shall be equal to or greater than the wages listed in [the Agreement].”

We documented actual trainee wage rates based on employer responses for 34 of the 41 initial random sample trainees for whom Employment Verification Questionnaires were mailed. Trainee wage rates reported by ATI College varied by 5 percent or more from actual wage rates for 23 of the 34 trainees (68 percent).

Recommendation ATI should ensure all trainee wage rate data submitted to ETP is accurate and complete. Inaccurate or incomplete data may result in repayment of unearned funds, plus applicable interest, to ETP.

ATTACHMENT A - Appeal Process

4450. Appeal Process.

- (a) An interested person may appeal any final adverse decision made on behalf of the Panel where said decision is communicated in writing. Appeals must be submitted in writing to the Executive Director at the Employment Training Panel in Sacramento.
- (b) There are two levels of appeal before the Panel. The first level must be exhausted before proceeding to the second.
 - (1) The first level of appeal is to the Executive Director, and must be submitted within 30 days of receipt of the final adverse decision. This appeal will not be accepted by the Executive Director unless it includes a statement setting forth the issues and facts in dispute. Any documents or other writings that support the appeal should be forwarded with this statement. The Executive Director will issue a written determination within 60 days of receiving said appeal.
 - (2) The second level of appeal is to the Panel, and must be submitted within 10 days of receipt of the Executive Director's determination. This appeal should include a statement setting forth the appellant's argument as to why that determination should be reversed by the Panel, and forwarding any supporting documents or other writings that were not provided at the first level of appeal to the Executive Director. If the Panel accepts the appeal and chooses to conduct a hearing, it may accept sworn witness testimony on the record.
 - (A) The Panel must take one of the following actions within 45 days of receipt of a second-level appeal:
 - (1) Refuse to hear the matter, giving the appellant written reasons for the denial; or
 - (2) Conduct a hearing on a regularly-scheduled meeting date; or
 - (3) Delegate the authority to conduct a hearing to a subcommittee of one or more Panel members, or to an Administrative Law Judge with the Office of Administrative Hearings.
 - (B) The Panel or its designee may take action to adopt any of the administrative adjudication provisions of the Administrative Procedures Act at Government Code Section 11370 *et seq.*, for the purpose of formulating and issuing its decision. Said action may take place at the hearing, or in preliminary proceedings.
 - (C) Upon completion of the hearing, the record will be closed and the Panel will issue a final ruling. The ruling may be based on a recommendation from the hearing designee. The ruling shall be issued in a writing served simultaneously on the appellant and ETP, within 60 days of the record closure.
- (c) The time limits specified above may be adjusted or extended by the Executive Director or the Panel Chairman for good cause, pertinent to the level of appeal.
- (d) Following receipt of the Panel's ruling, the appellant may petition for judicial review in Superior Court pursuant to Code of Civil Procedure Section 1094.5. This petition must be filed within 60 days from receipt of the Panel's ruling.

Authority: Section 10205(m), Unemployment Insurance Code; Section 11410.40, Government Code.

Reference: Sections 10205(k), 10207, Unemployment Insurance Code.

Effective: April 15, 1995

Amended: December 30, 2006